

**WASTE MANAGEMENT BOARD
ENFORCEMENT ACTION**

**AMENDMENT TO ORDER BY CONSENT
ISSUED TO
RAILWAY HANDLE CORPORATION
KENBRIDGE, VIRGINIA
EPA ID NO. VAR000014589**

SECTION A: Purpose

This is an Amendment to a Consent Order issued under the authority of Va. Code § 10.1-1455 by the Waste Management Board (“Board”) to Railway Handle Corporation (“Railway Handle”) for the purpose of revising certain provisions of the Order. The Order was issued by the Board to Railway Handle on January 22, 2001, and shall hereafter be referred to as the “2001 Order.”

SECTION B: Basis for Amendment

1. On January 22, 2001, the Board issued a Consent Order to Railway Handle for the unpermitted treatment of hazardous wastes by open burning. The 2001 Order required Railway Handle to submit a written closure plan for the miscellaneous unit used to treat solvents D001, F003, and F005 in accordance with the requirements of 40 Code of Federal Regulations (“CFR”) § 264.110 – 120 (Subpart G, Closure and Post-Closure), 40 CFR § 264.140 – 151 (Subpart H, Financial Assurance), and 40 CFR § 264.220 – 232 (Subpart K, Surface Impoundments) incorporated in 9 Virginia Administrative Code (“VAC”) 20-60-264.
2. By letters dated June 12, and August 15, 2002, Railway Handle requested the 2001 Order be amended for good cause pursuant to Section E, paragraph 1 of the 2001 Order. Railway Handle demonstrated that the solvent wastes did not contain the 10 percent by volume of certain solvents required to meet the definition of a toxic hazardous waste in accordance with 40 CFR § 261.31(a),

and therefore any residuals produced by the burning of the solvents would also be excluded from this rule and therefore not be a hazardous waste pursuant to 40 CFR §§ 261.3(d)(1) and 261.3(g)(1). Further, Railway Handle demonstrated by soil sampling analysis that no, or de minimis, levels of the constituents of concern are present at the site of the miscellaneous unit.

3. The DEQ has determined that land disposal restrictions are not automatically applicable to the open burning of hazardous waste by Railway Handle because it is treatment, not disposal, and did not involve the placement of wastes on the land. Hence, the DEQ has determined that no further closure or corrective action activities are required. This decision is supported by the definitions found in the Resource Conservation and Recovery Act, the regulations pertaining thereto, and the rationale set forth in the applicable Federal Registers. See 51 FR 40572 and 52 FR 46946.
4. Therefore, based on good cause shown by Railway Handle and the determination by the DEQ that land disposal restrictions are not applicable in the instant case, the Board and Railway Handle agree that it is appropriate to amend the 2001 Order as described below.

SECTION C: Agreement and Order

Accordingly, the Board, by virtue of the authority granted in Va. Code § 10.1-1455, and pursuant to Section E, paragraph 1 of the 2001 Order, relieves Railway Handle of the actions required in paragraphs 2, 3, 4, and 5 of Appendix A of the 2001 Order. The Board and Railway Handle understand and agree that this Amendment does not alter, modify, or amend any other provision of the 2001 Order, and that the unmodified provisions of the 2001 Order remain in effect by its terms.

And it is so ORDERED this _____ day of _____, 2002.

Robert G. Burnley, Director
Department of Environmental Quality

Railway Handle consents to the issuance of this Amendment.

By: _____

Date: _____

Commonwealth of Virginia

City/County of _____

The foregoing instrument was acknowledged before me this ____ day of _____, 2002,

by _____, who is _____ of
Railway Handle Corporation.

Notary Public

My commission expires: _____

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